

REMARKS

Claims 1-8 are all the claims pending in the application. By this Amendment, Applicant hereby amends claims 1-4, 6, and 7.

I. Preliminary Matters

The Examiner returned the PTO/SB/08 form submitted with the Information Disclosure Statement filed on January 17, 2006, however the Examiner failed to indicate consideration of two of the references listed on the form. With respect to the foreign patent document EP 0 946 070, the Examiner indicated that no copy is present in the file. Although Applicant believes a copy of this document was previously submitted, Applicant hereby submits another copy of this reference. With respect to the non-patent literature document 3GPP TS 25.214 V3.7.0, Applicant respectfully notes that this document is present in the Image File Wrapper. The Examiner is respectfully requested to indicate consideration of these documents.

II. Claim Objections

Claims 1-8 are objected to under 37 C.F.R. § 1.75(c) as allegedly being improper because the expression “predetermined communication quality or more” in independent claims 1, 3, and 6 is vague and unclear. Applicant respectfully submits that 37 C.F.R. § 1.75(c) is not relevant to the Examiner’s objection and the Examiner’s objection is thus not proper under 37 C.F.R. § 1.75(c). Applicant also respectfully submits that the expression “predetermined communication quality or more” is not vague or unclear in light of the examples and explanation in the specification.

Claims 1-4, 6, and 7 are hereby amended. Applicant respectfully submits that this amendment is not narrowing. Applicant further respectfully submits that claims 1-8 are definite.

III. Claim Rejections under 35 U.S.C. § 102(a)

Claims 1-8 are rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent No. 6,405,021 to Hamabe (hereinafter “Hamabe”). Applicant respectfully traverses this rejection and respectfully requests the Examiner to reconsider this rejection at least in light of the comments which follow.

Turning first to claim 1, the Examiner alleges that Hamabe discloses “determining up-transmission power using only up-transmission power instruction information from radio base stations having down-links of at least a predetermined communication quality, from among the up-transmission power instruction information received from the radio base stations.” Applicant respectfully disagrees.

Hamabe discloses that the up-transmission power is raised if there is at least one instruction to raise the up-transmission power among instructions from all base stations (*see col. 9, line 59-col. 10, line 3 and col. 16, lines 19-48 of Hamabe*). Accordingly, Hamabe may raise the up-transmission power even if the down-link is less than a predetermined communication quality. Hamabe does not teach or disclose that the power of the down-link must be of at least a predetermined communication quality.

Thus, for at least the above reasons, Applicant respectfully submits that claim 1 is patentable over Hamabe. Claims 3 and 6 recite features similar to, although not necessarily coextensive with, the features discussed above with respect to claim 1. Accordingly, claims 3 and 6 are patentable over Hamabe at least for the reasons discussed above with respect to claim 1. Applicant respectfully submits that claims 2, 4, 5, 7, and 8 are patentable over Hamabe at least by virtue of their dependency on claims 1, 3, or 6.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: January 4, 2008